THE HON'BLE Ms. JUSTICE G.ROHINI

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WRIT PETITION No. 6538 of 2006

Dated: 17-04-2006

Between:

M/s. Ananya Shrimpings P.Ltd

..... PETITIONER

AND

Bank of India, rep., by Chief Manager,

SSI Branch, Dabagardens,

Visakhapatnam and another.

....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

–

WRIT PETITION No. 6538 of 2006

O R D E R:

This writ petition is filed seeking a declaration that the alleged action of the first respondent-Bank in issuing notices under Section 13(2) and Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') is arbitrary and illegal and

contrary to the procedure contemplated under the Act.

In response to the notice issued on 04-04-2006, the respondent-Bank filed counter affidavit from which it is clear that the petitioner company is still liable to pay a sum of Rs.29,73,700/- as on 27-09-2005 after adjusting the deposit amount of Rs.55,00,000/-. It is also clear that the unit of the petitioner company was closed and the account of the petitioner continues to be treated as non-performing account. It is also clear from the counter affidavit that the notices under Section 13(2) and 13(4) of the Act were validly issued and the possession of the secured assets was taken on
17-01-2006. The notice for sale of the secured assets was also issued by letter dated 31-01-2006. However, so far no publication of sale has been made. It is also stated in the counter affidavit that though the petitioner company made a representation dated 24-02-2006 proposing to sell assets of the company and requesting the respondent-Bank for inspection of the documents by intending purchasers, the respondent-Bank did not agree for the same and declined to issue any such no objection certificate and proposed to sell the property under the provisions of the Act.

In view of the fact that still about a sum of Rs.30,00,000/- is due, I am unable to agree with the contention of the learned counsel for the petitioner that the petitioner's account cannot be treated as non-performing account merely on the ground that it paid a sum of
Rs.55,00,000/-.

More over the possession of the secured assets was already taken and admittedly the petitioner company is not a running unit. Hence, the action of the respondent-Bank in proposing to sell the secured assets invoking the provisions of the Act cannot be held to be either arbitrary or illegal, and the interference by this Court is not warranted.

The writ petition is devoid of any merit and the same is accordingly dismissed. No costs.

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G.ROHINI, J

Dated: 17 -04-2006

KLP